

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House
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FISCAL IMPACT STATEMENT

LS 6744

BILL NUMBER: SB 291

DATE PREPARED: Dec 23, 2000

BILL AMENDED:

SUBJECT: Electronic Gaming Devices.

FISCAL ANALYST: Jim Landers

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FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill creates a license under the jurisdiction of the Indiana Alcoholic Beverage Commission (ABC) that permits gambling on electronic gaming devices in establishments that hold permits issued by the Commission. The bill imposes an annual establishment license fee of \$1,000 per electronic gaming device and limits the number of gaming devices that an establishment may have.

The bill also creates a license for operators of electronic gaming devices and requires operators to pay a \$5,000 annual fee. It provides that the fees are deposited in the Electronic Gaming Fund administered by the ABC. In addition, this bill specifies the distribution of money from the fund and establishes penalties for violations.

Effective Date: Upon passage; July 1, 2001.

Explanation of State Expenditures: This bill provides the Alcoholic Beverage Commission (ABC) with the power and duty to administer, regulate, and enforce electronic gaming operations and requires the ABC to adopt rules relating to these operations. The ABC is required to conduct background investigations of each license applicant. However, a background investigation conducted in connection with the issuance of a retail, club, restaurant, or hotel permit satisfies the investigation requirement. The State Police Department is required to assist the ABC in conducting background investigations and will be reimbursed for costs incurred.

This bill establishes the Electronic Gaming Fund, which is to be administered by the ABC. Money from the Fund is continually appropriated to the ABC for carrying out the provisions of this article. Expenses are to be paid from the Fund but may not exceed 5% of the total amount collected in any fiscal year.

It is estimated that the ABC will need to hire three additional COMOT III staff members to process the additional license applications. It is estimated that 6,527 establishments would be eligible for licensing. The

ABC currently has five staff members to process approximately 10,000 alcoholic beverage permits. The total cost for three COMOT III staff members, including salary, fringe benefits, and indirect costs, is estimated to be \$89,243 in FY 2002 and \$87,201 in FY 2003.

The funds and resources required above could be supplied through a variety of sources, including the following: (1) Existing staff and resources not currently being used to capacity; (2) Existing staff and resources currently being used in another program; (3) Authorized, but vacant, staff positions, including those positions that would need to be reclassified; (4) Funds that, otherwise, would be reverted; or (5) New appropriations. As of December 2, 2000, the ABC had two vacancies out of 83 authorized positions. Ultimately, the source of funds and resources required to satisfy the requirements of this bill will depend upon legislative and administrative actions.

This bill will increase the inspection and enforcement duties of excise police officers. If there is an increase in the number of violations cited, there would be an increase in costs associated with court appearances, depositions, and report drafting. As of December 2, 2000, the ABC had 55 excise police officers with one authorized position vacant to investigate and inspect 10,000 alcoholic beverage permit premises. Excise officers conduct approximately 15,500 inspections of ABC permit holders annually. The majority of these officers are POLE II staff members. If additional excise police officers were hired as POLE II officers, the estimated cost per officer of salary, benefits, and equipment would be \$31,121 in FY 2002 and \$30,495 in FY 2003.

The ABC will also need to upgrade its computer system to be able to track both alcoholic beverage permits and electronic gaming licenses. In addition, the ABC's office is currently at capacity in terms of room for personnel and storage space for files.

This bill provides that tampering with or manipulating electronic gaming devices (excluding coin-operated games for amusement only) constitutes a Class D felony. Buying, selling, leasing, or distributing an unlicensed electronic gaming device would also be a Class D felony under this proposal. A Class D felony is punishable by a prison term ranging from six months to three years or reduction to Class A misdemeanor depending upon mitigating and aggravating circumstances. The average expenditure to house an adult offender was \$20,700 in FY 1999. Individual facility expenditures ranged from \$14,936 to \$37,807. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the average cost for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner. The average length of stay in Department of Correction (DOC) facilities for all Class D felony offenders is approximately ten months.

Explanation of State Revenues: This bill creates an Establishment License that allows qualified establishments to operate electronic gaming devices on their premises. Table A illustrates the type and estimated number of qualified establishments, the maximum number of devices allowed at each type of establishment, and the maximum number of devices per type of establishment.

Table A: Maximum Number of Electronic Gaming Devices.			
Qualified Establishments	Number of Establishments	Number of Devices Permitted	Maximum Number of Devices Per Establishment Type
Retail Permit Holders*	5,409	5	27,045
Club Permit Holders**	1,117	20	22,340
Horse Track Permit Holders	1	20	20
TOTAL	6,527		49,405
*Retail permit holders include beer retailers, wine retailers, liquor retailers, restaurants, and hotels. **Club permit holders include social and fraternal clubs.			

Note: The Lottery Commission estimated in a 1993 study that there were between 10,000 and 15,000 video lottery machines being used illegally in the state.

The bill allows the ABC to determine the fee for the Establishment License. The maximum fee for this license is \$1,000 per device each year. It is not known how many permit holders would apply for an Establishment License. Assuming the license fee is set at \$1,000 and all of the 6,527 qualified establishments license at least one gaming device, license revenue would equal approximately \$6.5 M annually. If half of the qualified establishments license five gaming devices, license revenue would equal approximately \$16.3 M per year. If all of the qualified establishments license the maximum number of devices authorized in this bill, permit revenue would equal approximately \$49.4 M per year.

This bill also creates the Operator License, which is required for individuals or businesses to distribute, sell, or lease electronic gaming devices. It is also required for a person to own and place more than 20 devices at an establishment. The Indiana Amusement and Music Operators Association estimates that there are approximately 180 operators in Indiana that may seek licensure under this proposal. The maximum fee for an Operator License is \$5,000. Assuming the fee is set at \$5,000 and all 180 operators apply for a license, revenue would equal \$900,000 annually.

This bill also establishes the Electronic Gaming Fund to receive revenue from the Establishment and Operator License fees. Table B illustrates how money in the Fund would be distributed at the end of the state fiscal year after administrative expenses are paid (these expenses are currently indeterminable). However, the bill prohibits such expenses from exceeding 5% of the total amount collected from license fees during the fiscal year. 20% of the remaining money would be distributed to the counties based on population, and another 20% would be distributed to cities and towns based also on population. The amount remaining in the Fund would be transferred to the Property Tax Replacement Fund and used to increase the Property Tax Replacement Credit (PTRC). The 20% PTRC in CY 2000 amounted to approximately \$829.6 M (each 1% of PTRC cost the state \$41.5 M). Additional money used for PTRC would increase the percentage of the credit by an indeterminable level above the current 20%.

Table B: Distribution of Revenue from the Electronic Gaming Fund (after administrative expenses).	
RECIPIENT	AMOUNT
Counties (based on population)	20%
Cities and towns (based on population)	20%
Property Tax Replacement Fund	Amount remaining

This bill may increase the number of electronic gaming devices sold, increasing sales tax revenue. **Sales tax revenue** is deposited in the state General Fund, the Property Tax Replacement Fund, and three other dedicated funds. In addition, an increase in the sale of devices will increase income tax revenue from any manufacturers and distributors located in Indiana. The use of electronic gaming devices by licensees could also increase their income, resulting in increased income tax revenue. Revenue from the Corporate Gross Income Tax, the Adjusted Gross Income Tax, and the Supplemental Net Income Tax is deposited in the state General Fund and the Property Tax Replacement Fund.

If allowing electronic gaming devices to be used in alcoholic beverage retail establishments increases sales, revenue from the Alcoholic Beverage Excise Tax may increase. Alcoholic Beverage Excise Tax revenue is deposited in the state General Fund, the Post War Construction Fund, the ABC's Enforcement and Administration Fund, the Pension Relief Fund, the Addiction Services Fund, and the Wine Grape Market Development Fund.

Regarding the Class D felony provision, if additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class D felony is \$10,000. Criminal fines are deposited in the Common School Fund. If the case is filed in a circuit, superior, or county court, 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund.

Explanation of Local Expenditures: Regarding the Class D felony provision, if more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. The average cost per day is approximately \$44.

Explanation of Local Revenues: Table B shows how money in the Electronic Gaming Fund would be distributed to counties, cities, and towns. Local government and school revenues would remain unchanged under the PTRC portion of this proposal. Property tax payers could see a reduction in property tax liability under this proposal if the current PTRC is supplemented with money from the Electronic Gaming Fund.

If allowing electronic gaming devices to be used in alcoholic beverage retail establishments increases sales, revenue from the Alcoholic Beverage Excise Tax may increase. Fifty percent of Alcoholic Beverage Excise Tax revenue deposited in the state General Fund is allocated to cities and towns.

Regarding the Class D felony provision, if additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: (1) The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive

3% of court fees. (2) A \$3 fee would be assessed and, if collected, would be deposited into the county law enforcement continuing education fund. (3) A \$2 jury fee is assessed and, if collected, would be deposited into the county user fee fund to supplement the compensation of jury members.

State Agencies Affected: Alcoholic Beverage Commission, Department of Correction.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources: Indiana Sheriffs Association, Department of Correction.
Don Okey, Excise Industry Liaison, Alcoholic Beverage Commission,
(317) 232-2463.
Lottery Commission Report on Video Lottery, 1993.
Local Government Database.